

Mathews County, VA  
Wednesday, January 6, 2016

## Chapter 140. Subdivision of Land

[HISTORY: Adopted by the Board of Supervisors of Mathews County 11-22-2005,<sup>[1]</sup> as amended through 2-28-2012. Subsequent amendments noted where applicable.]

### GENERAL REFERENCES

Erosion and sediment control — See Ch. 50.

Floodplain management — See Ch. 63.

Parks and recreation — See Ch. 109.

Sanitary district — See Ch. 125.

Wetlands — See Ch. 166.

Zoning — See Ch. 175.

[1] *Editor's Note: The ordinance adopted this date also superseded former Ch. 140, Subdivision of Land, adopted 8-28-1979.*

## Article I. Title, Purpose, Authority, and Jurisdiction

### § 140-1. Title.

This chapter shall be known, referred to, and cited as the Subdivision Ordinance of Mathews County, Virginia.

### § 140-2. Purpose.

The quality of life and the economic viability of Mathews County is dependent on the wise use of its land and other natural resources. A subdivision significantly impacts these resources through division and development, the welfare of the community is affected. Therefore, it is in the interest of the health, safety and welfare of the public and consistent with sound land use policy, wise resource management and water quality protection that subdivisions be designed, recorded and developed in accordance with sound and proper minimum standards. Accordingly, the objectives of this chapter are:

- A. To clearly establish the procedures, fees and standards that are required in order to subdivide land in Mathews County;
- B. To provide a procedure which facilitates the division of property, the marking of property boundaries and the transfer of deeds;
- C. To provide for a coordinated review and approval process for all of the pertinent and required permits needed for the subdivision;
- D. To ensure that this process includes wastewater disposal and other appropriate and applicable reviews;
- E. To ensure that purchasers of lots, tracts and parcels of land purchase a commodity that is accessible and suitable for the intended use;

- F. To ensure that this process includes consideration of water quality and other environmental and historic factors in conjunction with the Comprehensive Plan and to provide for efficiency and economy for the developer and the community in the process of development;
- G. To protect and improve the water quality of the Chesapeake Bay as intended by the Chesapeake Bay Preservation Act;
- H. To ensure adequate provisions for the maintenance and the coordination of public utilities, roads, easements and other public facilities and services;
- I. To assure adequate open spaces for recreation, light and air, and to assure adequate community access to the shoreline;
- J. To ensure proper erosion and sedimentation control, drainage, stormwater management and flood control;
- K. And, in general, to maintain the integrity and character of Mathews County.

## § 140-3. Authority and jurisdiction.

- A. Whereas, pursuant to §15.2-2240 et seq. and §§55-79.43 through 55-79.103 of the Code of Virginia of 1950 as amended, the Board of Supervisors of Mathews County, Virginia, is authorized to adopt regulations to assure the orderly subdivision of land and its development, to provide for the harmonious and economic development of the County, for the coordination of streets or roads within subdivision of land with other existing or planned streets or roads, for adequate open spaces, for traffic, recreation, light and air, and for distribution of population and traffic which will tend to create conditions favorable to health, safety, convenience and prosperity.
- B. Therefore, be it ordained by the Board of Supervisors of Mathews County, Virginia, that the following regulations are hereby adopted for the subdivision of land within Mathews County and after the effective date of this chapter, every owner or proprietor of any tract of land to which these regulations apply who subdivides such tract as provided in these regulations shall cause a plat of such subdivision to be developed and prepared in accordance with these regulations, with reference to known or permanent monuments, to be made and recorded in the office of the Clerk of the Circuit Court, wherein deeds conveying such land are required by law to be recorded.

## Article II. Terminology

### § 140-4. General rules of construction.

The following general rules of construction shall apply to the regulations of this chapter:

- A. The singular number includes the plural and the plural the singular, unless the context clearly indicates the contrary.
- B. Words used in the present tense include the past and future tenses; and the future, the present.
- C. The word "shall" is always mandatory. The word "may" is permissive.
- D. The word "lot" includes the word "parcel."
- E. The word "approve" shall be considered to be followed by the words "or disapprove."
- F. Any reference to this chapter includes all ordinances amending or supplementing the same.

- G. All distances of (or) areas refer to measurement in a horizontal plane.
- H. Words and terms not defined herein shall be interpreted in accord with their normal dictionary meaning and customary usage.

## § 140-5. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

### **AGENT**

An individual designated by the Board to administer all or part of this chapter.

### **BOARD**

The Board of Supervisors of Mathews County, Virginia; or its designated agent.

### **BOND**

A certified check or cash escrow in the amount of the estimated costs of construction. A personal, corporate or property bond, with surety satisfactory to the governing body or its designated administrative agency. An amount sufficient for and conditioned upon the construction of such facilities, or a contract for the construction of such facilities and the contractor's bond, with like surety, in like amount and so conditioned. A bank or savings institution's letter of credit on certain designated funds satisfactory to the governing body or its designated administrative agency as to the bank or savings institution, the amount and the form.

- A. The amount of such certified check, cash escrow, bond, or letter of credit shall not exceed the total of the estimated cost of construction based on unit prices for new public or private sector construction in the locality and a reasonable allowance for estimated administrative costs, inflation, and potential damage to existing roads or utilities, which shall not exceed 25% of the estimated construction costs.

### **BLOCK**

Land containing lots which are bounded by streets or a combination of streets and public lands, railroads, rights-of-way, shorelines, or boundaries of the County.

### **BUILDING SETBACK**

The minimum distance that a building must be set back from the front, rear, side and waterside lot line or boundary line.

### **CENTRAL WATER SYSTEM**

A water system in which all connections in the subdivision are served by one or more water sources through a common distribution system owned and operated by the County or a company, including all structures, hydrants, property, equipment and appurtenances used in the collection, storage, and distribution of water.

### **CHESAPEAKE BAY PRESERVATION AREA**

Any land designated by the board as a resource management area (RMA) and/or a resource protection area (RPA).

### **COMMISSION**

The Planning Commission of Mathews County, Virginia.

### **COMMUNITY WATER SYSTEM**

A waterworks, which serves at least 15 service connections, used by year-round residents or regularly serves at least 25 year-round residents.

**COUNTY**

Mathews County, Virginia.

**CUL-DE-SAC**

A minor street with only one outlet and having a circular turnaround at the opposite end for the safe and convenient reversal of traffic movement.

**CURRENT SUBDIVISION STREET REQUIREMENTS**

The current subdivision street requirements of the Virginia Department of Transportation in effect upon the date of approval of the final plat of subdivision by the Board of Supervisors of Mathews County, Virginia.

**DEDICATION**

The intentional appropriation of land to some public use by the subdivider and which is accepted for that use by the governing body on behalf of the public.

**DRIVEWAY**

A private roadway that provides the principal means of vehicular access from a public or private right-of-way to single-family dwellings and/or one single duplex to no more than two parcels containing no more than two dwelling units per parcel. The County and the Virginia Department of Transportation have no maintenance responsibilities for private driveways.

**EASEMENT**

A grant by one property owner to another, recorded with the clerk of the Circuit Court, of the right to use the described land for specific purposes.

**ENGINEER**

An individual licensed by the Commonwealth of Virginia to engage in the practice of engineering.

**ENVIRONMENTAL CONSTRAINTS**

Features, natural resources, or land characteristics that are sensitive to development activities and/or installation of improvements and may require conservation measures and/or the application of creative development techniques to prevent degradation of the environment. In some instances, environmental constraints may limit or preclude development.

**FLOODPLAINS**

All lands likely to be inundated by a flood.

**GEODETIC CONTROL NETWORK**

A system of survey monuments whose precise positions have been established and from which additional surveys can be derived. The geodetic control network in the Mathews County has two components:

- A. Primary network. A system of survey monuments located throughout the County the precise positions and elevations of which have been established by rigorous ground and global positioning surveys, and which are fully referenced to the Virginia Coordinate System of 1983 (South Zone) and the 1983 North American Datum.
- B. Secondary network. A system of survey monuments located in and on subdivision boundaries and rights-of-way the positions of which have been established by ground surveys.

**GOVERNING BODY**

The Board of Supervisors of Mathews County, Virginia.

**HEALTH DEPARTMENT**

The Commonwealth of Virginia Department of Health or an authorized official thereof.

**HEALTH OFFICER (OR OFFICIAL)**

The Health Director of Mathews County, Virginia, or his/her designated representative.

**HIGHWAY DEPARTMENT**

The Virginia Department of Transportation.

**HIGHWAY ENGINEER**

The Resident Engineer employed by the Virginia Department of Transportation.

**IMMEDIATE FAMILY**

For the purpose of Section 4.29,<sup>[1]</sup> a member of the "immediate family" is defined as any person who is a natural or legally defined offspring, 18 years of age or older or an emancipated minor under § 16.1-331 et seq. of the Code of Virginia, or parent (to include legal step-parents) of the owner and may include a grandparent, mother-in-law and father-in-law.

**IMPROVEMENTS**

All public, municipal, and corporate utilities and facilities including streets, sanitary sewers, waterlines, water systems, stormwater management and erosion control facilities, monuments, signs, sidewalks, streetlights, and all other similar features required by this chapter or by the zoning ordinance.<sup>[2]</sup>

**JURISDICTION**

The area or territory subject to the legislative control of the governing body.

**LAND SURVEYOR or SURVEYOR**

An individual certified and licensed by the Commonwealth of Virginia to engage in the practice of land surveying.

**LOCAL HEALTH DEPARTMENT**

A branch of the State Health Department established in each city and County in accordance with Title 32.1, § 32.1-30, of the Code of Virginia, as amended.

**LOT**

A recorded and numbered unit, division, or piece of land; generally created as a result of subdivision of property. The term is synonymous with "plot," "parcel," "premises," and "site."

**LOT, CORNER**

A lot abutting upon two or more streets at their intersection. All sides abutting a street shall be considered the fronts of the lot.

**LOT, PIPE STEM**

A lot which does not abut a public street other than by its driveway which affords access to the lot.

**LOT, WIDTH OF**

The mean horizontal distance between side lot lines.

**MONUMENT OR SURVEY MONUMENT**

A permanent structure or edifice used or installed to mark the position of a survey station.

**NON-COMMUNITY WATER SYSTEM**

A waterworks that is not a community waterworks, but operates at least 60 days out of the year.

**NON-TRANSIENT NON-COMMUNITY WATER SYSTEM (NTNC)**

A waterworks that is not a community waterworks and that regularly serves at least 25 of the same persons over six months out of the year.

**OPEN SPACE**

An area intended to provide light and air, and designed, depending on the situation, for environmental, scenic, and/or recreational purposes. The computation of open space shall not include driveways, parking lots, or other surfaces designed or intended for motorized vehicular traffic.

**OPEN SPACE, COMMON**

Open space within or related to a development, not a part of individually owned lots or dedicated for general public use, but designed and intended for the common ownership, enjoyment and use of the residents of the development.

**PARCEL IDENTIFICATION NUMBER**

A number or series of numbers assigned by the County, which uniquely identifies each parcel of land in the County.

**PARENT TRACT**

A parcel or tract respectively, lawfully in existence as of June 24, 2009.

**PLAT**

Includes the terms map, plan, plot, replat, or replot; a map or plan of a tract or parcel of land which is to be or which has been subdivided. When used as a verb, "plat" is synonymous with "subdivide."

**PLAT, RECORD**

A plat prepared and approved in accordance with this chapter which meets the Standards for Recorded Instruments of the Virginia State Library Board and which has been or is intended to be submitted to the clerk of the Circuit Court for recordation.

**PRELIMINARY PLAN OR SKETCH**

A map or plan indicating the proposed layout of a development together with related information that is submitted to the County for preliminary approval.

**PRIVATE STREET OR ROAD**

A private roadway that provides the principal means of vehicular access from a public right-of-way to single-family dwellings, and duplexes, for more than two and less than six parcels containing no more than two dwelling units per parcel. All parcels containing multifamily dwellings containing more than three dwelling units shall be served by a public road. The County and the Virginia Department of Transportation have no maintenance responsibilities for private roads.

**PROPERTY**

Any tract, lot or parcel, or several of the same collected together for the purpose of subdividing.

**PUBLIC SEWER**

A sewerage system owned and operated by the County of Mathews or a Sanitary District of the County.

**PUBLIC WATER**

A water distribution system owned by the County of Mathews or a Water Authority of the County.

**RESERVATION**

The provision of land by the subdivider for dedication to the public use.

**RESOURCE MANAGEMENT AREA**

The component of the Chesapeake Bay preservation area not classified as a resource protection area. The resource management area includes floodplains, highly erodible soils, including steep slopes, highly permeable soils, non-tidal wetlands and hydric soils not included in the resource protection area, and other areas and lands deemed necessary to protect the quality of state waters.

**RESOURCE PROTECTION AREA**

The component of the Chesapeake Bay preservation area comprised of lands at or near the shoreline that have an intrinsic water quality value due to the ecological and biological processes that they perform or are sensitive to impacts which may result in significant degradation to the quality of state waters. The resource protection area includes tidal wetlands, non-tidal wetlands connected by surface flows and contiguous to tidal wetlands or tributary streams, tidal shores, and other areas and lands deemed necessary to protect the quality of state waters.

**RETENTION BASIN**

A pond, pool, or basin used for the permanent storage of water runoff. Also referred to as a "wet pond."

**RIGHT-OF-WAY**

The total width of land dedicated or reserved for public or restricted travel, including pavement, ditches, curbing, gutters, sidewalks, shoulders, and sufficient land for the maintenance thereof.

**SANITARY SEWER**

Pipe conduits used to collect and carry away domestic or commercial/industrial sewage from the generating source to treatment plants. Storm, surface and groundwaters are not intentionally admitted into sanitary sewers.

**SEPTIC SYSTEM**

An underground system with a septic tank and one or more drain lines depending on volume and soil conditions which is used for the decomposition of domestic wastes.

**SETBACK**

The minimum distance by which any structure must be separated from the right-of-way line or other designated line.

**SEWAGE**

Water-carried and non-water-carried human excrement, kitchen, laundry, shower, bath or lavatory wastes separately or together with such underground, surface, storm or other water and liquid industrial wastes as may be present from residences, buildings, vehicles, industrial establishments or other places.

**SEWAGE DISPOSAL SYSTEM**

A sewage disposal system approved by the Virginia Department of Health and which is categorized under one of the following Virginia Department of Health classifications:

**A. TYPE I**

A Type I sewage disposal system is an individual sewage disposal system incorporating a septic tank and subsurface soil absorption (septic tank-subsurface drain field) serving a single residence. The submission of an application is all that is normally necessary to initiate procedure for obtaining a permit under this subsection. If after a site investigation by the health department, it is determined that pumping, enhanced flow distribution (See 12VAC5-610-930 A) or low-pressure distribution (See 12VAC5-610-940) is necessary, the system shall be considered a Type II system.

**B. TYPE II**

A Type II sewage disposal system is a sewage disposal system incorporating a septic tank and resurface soil absorption system which serves a commercial or other establishment, more than a single family dwelling unit, or where pumping, enhanced flow distribution (See 12VAC5-610-930 A) or low pressure distribution (See 12VAC5-610-940) is necessary.

**C. TYPE III**

A Type III sewage disposal system is a sewage disposal system other than a septic tank subsurface soil absorption system or a privy.

**SEWAGE HANDLING**

The vehicular conveyance of sewage.

**SEWERAGE SYSTEM**

Pipe lines or conduits, pumping stations and force mains and all other construction, devices and appliances appurtenant thereto, used for the collection and conveyance of sewage to a treatment works or point of ultimate disposal.

**STREET**

An existing or platted right-of-way dedicated for the use of the general public, or portions thereof, and built for acceptance into the Department of Transportation Highway System. A street shall provide vehicular and pedestrian access to property for all purposes of travel, transportation and/or parking to which it is adopted, devoted, or dedicated. The term is synonymous with "road," "lane," "drive," "avenue," "highway," "roadway," "thoroughfare," or any other term of like or common meaning.

**SUBDIVIDE**

To divide any tract, parcel, or lot of land into two or more parts.

**SUBDIVIDER/DEVELOPER**

An individual, firm, corporation, association, registered partnership, or trustee owning any tract, lot, or parcel of land to be subdivided or a group of two or more persons owning any tract, lot, or parcel of land to be subdivided, who have given their power of attorney to one of their group or to another individual to act in their behalf in planning, negotiating for, in representing, or executing the legal requirements of the subdivision.

**SUBDIVISION**

The separation in any manner of a parcel or tract of land into two or more lots for the purpose, either immediate or future, (a) of transfer of ownership; or (b) of building; or (c) of commercial land development. The term includes resubdivision and, when appropriate to the context, shall relate to the process of subdividing or to the land to be subdivided. All divisions of land shall comply with the articles set forth in the subdivision ordinance of Mathews County except for the following:

- A. The plat of a single separation of a lot or parcel for the purpose of sale or gift to a member of the immediate family of the property owner for that member's personal use shall be submitted in accordance with Article VI of this chapter. Lots so created shall have right-of-way of not less than 20 feet in width providing ingress and egress to a dedicated recorded public street. Only one such division shall be allowed per family member, and shall not be for the purpose of circumventing this subsection. The family member must own the property for a minimum of three consecutive years. A member of the immediate family is defined as any person who is a natural or legally defined offspring, spouse, or parent of the owner. Such subdivisions are to be approved by the agent.
- B. Transfer of a lot or parcel of land by will, in testate succession or court-ordered partition is to be excluded from the articles of this chapter. A plat must show the signature of either the agent or the Chairman of the Board of Supervisors before it can be recorded.
- C. Division of land of five acres or more to be used solely for agricultural and/or silvicultural purposes is exempted and shall be explained in a covenant filed with the deed. A site plan review will be required to change from agricultural and/or silvicultural uses and to remove this covenant.

**SUBDIVISION, MAJOR**

Division of a parent tract of land into more than five lots.

**SUBDIVISION, MINOR**

Division of a parent tract of land into five lots or less.

**TIDAL SHORE**

Land contiguous to a tidal body of water lying between the mean low water level and the mean high water level.

**TRANSPORTATION, DEPARTMENT OF**

The Virginia Department of Transportation (VDOT).

**TRIBUTARY STREAM**

Any perennial or intermittent stream, including any lake, pond, or other body of water formed therefrom, that is so depicted on the most recent U. S. Geological Survey 7 1/2 minute topographic quadrangle map (scale 1:24,000), or the Soil Conservation Service, Soil Survey of Mathews County, Virginia or as otherwise determined through field analysis and verification.

**WATERWORKS**

A system that serves piped water for drinking or domestic use to the public, at least 15 connections, or an average of 25 individuals for at least 60 days out of the year. The term "waterworks" shall include all structures, equipment and appurtenances used in the storage, collection, purification, treatment and distribution of pure water except the piping and fixtures inside the building where such water is delivered [see Article 2 (§ 32.1-167 et seq.) of Chapter 6 of Title 32.1 of the Code of Virginia].

**WETLANDS**

Wetlands are divided into two classes:

**A. NON-TIDAL WETLANDS**

Wetlands other than tidal wetlands that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, as defined by the U. S. Environmental Protection Agency pursuant to section 404 of the Federal Clean Water Act, 33 CFR 328.3b, dated November 13, 1986.

**B. TIDAL WETLANDS**

Vegetated and non-vegetated wetlands as defined in § 62.1-13.2 of the Code of Virginia.

**WOODLAND**

A tract of land dominated by trees but usually also containing woody shrubs, grasses, and other vegetation. For purposes of this chapter, the term "woodland" shall incorporate woods, woodland areas, wooded areas, forest, forested areas and any other terminology commonly recognized to have the same meaning.

**YARD**

An open space on a lot, other than a court, unoccupied and unobstructed from the ground upward.

**YARD, FRONT**

An open space on the same lot as a structure, between the extreme front wall line of the structure (excluding steps) and the front lot or street line and extending the full width of the lot.

**YARD, SIDE**

An open space on the same lot as a structure, between the extreme side wall line of the structure (excluding steps) and the side line of the lot, extending from the front yard line to the rear lot line. This applies to both sides of the structure.

**ZONING ORDINANCE**

The Zoning Ordinance of Mathews County, Virginia including all amendments thereto.<sup>[3]</sup>

[1] *Editor's Note: So in original.*

[2] *Editor's Note: See Ch. 175, Zoning.*

[3] *Editor's Note: See Ch. 175, Zoning.*

## Article III. Administration

### § 140-6. Administration and appointment of agent.

The Board of Supervisors of Mathews County shall be responsible for the administration of this chapter and, where applicable, shall hereinafter be referred to collectively as the Board. The Board may, however, designate an agent to administer all or part of this chapter.

### § 140-7. Duties of agent.

Once appointed by a resolution of the Board, the agent shall be designated to administer this chapter. The agent and/or Board shall perform their duties as regards to subdivisions and subdividing in accordance with this chapter and the Virginia Land Subdivision Act.

### § 140-8. Conformity with public policy.

Mathews County is a developing County without either the benefits or detriments of a large bureaucracy. Therefore, the governing body delegates to the agent certain oversight and review responsibilities as are enumerated, hereinafter, within this chapter as an additional safeguard to conformity and compliance with the spirit and intent of the Code of Virginia, the Mathews County Comprehensive Plan, the Chesapeake Bay Act, the Mathews County Zoning Ordinance,<sup>[1]</sup> the Erosion and Sediment Control Ordinance of Mathews County<sup>[2]</sup> and other appropriate legislation to ensure the continued health, safety and welfare of the residents of Mathews County.

[1] *Editor's Note: See Ch. 175, Zoning.*

[2] *Editor's Note: See Ch. 50, Erosion and Sediment Control.*

### § 140-9. Notice to adjoining property owners.

Persons owning property (whether real or riparian leaseholds) adjoining any major subdivision shall be given notice of the filing of the preliminary plat by the subdivider by certified mail after authorization has been given by the agent. The required notification shall be given by the applicant on the standard County "Notification of Adjacent Property Owner Concerning Proposed Subdivision" form. Adjoining property owners is construed to also include those directly across roads or restricted waters (500 feet or less) from the proposed subdivision.

### § 140-10. Consultation.

In the performance of his duties, the agent may call for opinions or decisions, either verbal or written, from other departments and agencies in considering details of any submitted plat. This authority of the agent shall have particular reference to the Resident Highway Engineer, the Health Officer, and the Erosion and Sediment Control Administrator. In developments totaling over five lots, the agent may require the developer, at the developer's expense, to have studies made to determine feasibility.

### § 140-11. Additional authority.

In addition to the regulations herein contained for the platting of subdivisions, the agent may establish any reasonable additional administrative procedures deemed necessary for the proper administration of this chapter.

## § 140-12. Power to promulgate regulations.

In addition to the regulations herein contained for the platting of subdivision, the agent may, from time to time, recommend to the governing body any reasonable additional administrative procedures deemed necessary for the proper administration of this chapter.

## § 140-13. Classification of subdivisions.

- A. Minor subdivision: A minor subdivision shall be a division of a parent tract of land into five or fewer lots. Multiple minor subdivisions from the same parent tract that increase the total lot count of the combined subdivisions to more than five lots shall not be permitted. Residue or residual parcels not attached to an adjoining tract shall count towards the total number of divisions of a tract of land.
- B. Major subdivision: A subdivision with more than five lots. The term "major subdivision" shall include any subdivision of a parent tract of more than five lots that is designed and developed as a single unit, regardless of the number of owners and subdividers involved or the number of parcels or tracts of land encompassed by the subdivision. The term "major subdivision" shall also include any subdivision which initially contains fewer than five lots, but which is intended to become a subdivision of more than five lots at some future time through additions. Residue or residual parcels not attached to an adjoining tract shall count towards the total number of divisions of a tract of land.

## § 140-14. Noncircumvention.

No plan shall be approved for development usage where the principal effect of the design is to subvert the purpose of these regulations by inclusion of excessively unbalanced distribution of land among lots or inclusion of open spaces which are inappropriately located or which will not contribute to the future amenity of the subdivision. Designs are subject to review on the basis of all of the setback and environmental standards and constraints set forth in this chapter and the Zoning Ordinance.<sup>[1]</sup> In addition to the above, the following standards shall apply to any request for subdivision covered by this section must be met in subdivision requirement.

- A. No part of lot area necessary to meet density requirements shall be located in a wetland, or covered by any body of water.
- B. All resubdivisions, including sales, which constitute resubdivisions, shall be in conformance with this chapter.
- C. An average lot area or residential cluster (either condominium or otherwise) shall be designed to promote harmonious relationships with surrounding adjacent and nearby developed properties and, to this end, may employ such design techniques as may be appropriate to a particular case, including coordination of yard dimensions, location of lots of various sizes, location of buildings with respect to property boundary lines, location of open spaces and maintenance woodlands and vegetation.
- D. The preservation of wetlands and natural vegetation, and particularly large trees on steep slopes, along watercourses and in stream valleys, should be recognized as a primary design consideration in review and approval of an application under this section.

[1] *Editor's Note: See Ch. 175, Zoning.*

## § 140-15. Vesting of rights.

This chapter is written for the protection of the citizens, both present and future, of Mathews County and specifies the manner in which land is to be subdivided, thereby creating rights in and to the affected property. A proposed subdivision becomes vested upon the filing of a subdivision application along with the filing of a proposed subdivision survey, dated not more than 12 months before the filing of the application with the information required in § 140-70 or 140-76 of this chapter. The zoning and subdivision requirements in effect at the time of application must be met.

## Article IV. General Regulations

### § 140-16. Chesapeake Bay preservation.

Subdivisions shall comply with the requirements of the Mathews County Zoning Ordinance, Article XXII, Chesapeake Bay Preservation Area Overlay District.<sup>[1]</sup>

[1] *Editor's Note: See Ch. 175, Zoning, Art. XXII.*

### § 140-17. Mutual responsibility and suitability of land.

- A. There is mutual responsibility between the subdivider and the agent to divide the land so as to improve the general use pattern for the land being subdivided. The agent and Board of Supervisors shall not approve the subdivision of land if, from adequate investigations conducted by all necessary public agencies concerned, it has been recommended that such land is not suitable for the purpose intended. Furthermore, a subdivision shall not be approved if it contains building lots which are not suitable for development for one or more of the following reasons as such subdivision may endanger the health, safety, property, and welfare of the persons building and utilizing the lot or other properties or adversely impact the water quality of the Chesapeake Bay:
- (1) Land which is deemed to be topographically unsuitable because it does not provide building sites of at least 10,000 contiguous square feet with slopes less than 15%, to include construction of roads and driveways;
  - (2) Wetlands, areas with poor drainage or hydric soils, floodplain, and other areas that are periodically inundated with water, and as established by the ten-year floodplain. Filling in of such areas to create upland conditions will not be permitted;
  - (3) Areas with soils which, by Health Department standards or this chapter, are unsuitable for sewage disposal systems and where another means of sewage treatment is not provided;
  - (4) Areas with potentially injurious conditions resulting from special soil and water conditions such as shrinking and swelling clays and/or marine clays unless such conditions can be rendered harmless by standard development and construction practices. All such areas must be clearly indicated on the plat and may not be used for septic drain fields; and
  - (5) Other adverse physical conditions identified by other public agencies involved.
- B. Subdivisions shall not be approved where lots are of insufficient size or inappropriately shaped for intended structures and use or, in the absence of a suitable area, as needed, for a well, septic drain field and reserve drain field, if applicable.
- C. Wetlands as defined in the Virginia Wetlands Zoning Act,<sup>[1]</sup> or any land subject to periodic flooding,

including land subject to flooding that is identified by County, state or federal agency flood hazard maps or studies, shall not be subdivided in such a way as might increase danger to health, life or property of citizens of the County or aggravate erosion or the flood hazard. To insure sufficient buildable land which is reasonably flood free, the agent and Board of Supervisors shall require the subdivider to provide a certificate of elevation or elevation and flood profiles from a professional engineer or land surveyor.

[1] *Editor's Note: See §28.2-1300 et seq. of the Code of Virginia.*

- D. Any land herein described as unsuitable for building sites shall be clearly indicated on the preliminary and final plats. All plats shall clearly show the shoreline at normal high water levels for tidal areas, rivers, streams and other water bodies or wetlands.
- E. Land shall not be subdivided which does not have access provided to each lot over suitable terrain as to provide reasonable means of ingress and egress unless such lots are designed for open space not requiring such access.

## § 140-18. Improvements and bonds.

- A. All required improvements shall be installed by the subdivider at his cost. All improvements shall be in accordance with the requirements of this chapter.
- B. Furthermore, all required improvements shall, in lieu of construction, be bonded in accordance with the requirements set forth below:
  - (1) The subdivider shall furnish the agent a bond sufficient to cover the costs of all improvements required to be installed by the subdivider as estimated by the agent based on a certified engineer's estimate or two guaranteed bids submitted by the subdivider, to guarantee the installation and completion of said improvements. The amount of such bond shall not exceed the total of the estimated costs of construction of the required improvements based on unit prices for new public or private sector construction in the locality. A time schedule, not to exceed 12 calendar months, for completion of all required improvements shall also be provided to the agent. Both the bond and the schedule shall be provided to the agent in an acceptable form prior to final plat approval. The subdivider's bond shall be held by the County treasurer and not released until such time as:
    - (a) All of the improvements have been completed and inspected by the appropriate engineers, in which case the bond, together with any interest thereon, shall be released to the subdivider, or;
    - (b) The time schedule for such improvements has lapsed and the improvements are not completed, in which case the bond shall become forfeit, together with any accrued interest thereon, and the County will complete the required improvements.
  - (2) The agent shall, upon receipt of a written request from the subdivider, extend the time for completion of improvements for an additional six months beyond the original schedule. The agent shall require additional funds to be posted by the subdivider into the bond account based on revised bids. Additional funds shall not be levied as a punishment. The bonds shall be held in interest-bearing accounts in federally insured financial institutions.
  - (3) Upon written request by the developer, the agent shall make periodic partial releases of such bond as required above. Such periodic releases shall not be granted until at least 30% of the improvements covered by the bond have been completed nor shall periodic releases be granted after completion of more than 80% of the improvements. The agent shall not be required to execute more than three such partial releases in any twelve-month period. Upon final completion and acceptance of all improvements, the agent shall release any remaining bond amounts to the

developer. For purpose of final release, the term "acceptance" is deemed to mean: when said improvement is accepted and taken over for operation and maintenance by the state or local agency or other public authority, to include homeowners' association, which is responsible for maintaining and operating such improvements.

## § 140-19. Lot area and bulk requirements.

Lots shall comply with the area, size, width, frontage, setback and other bulk requirements of the Mathews County Zoning Ordinance.<sup>[1]</sup>

[1] *Editor's Note: See Ch. 175, Zoning.*

## § 140-20. Sewage disposal systems.

- A. The agent shall not approve any subdivision where sanitary sewers are not provided unless the agent receives in writing from the Health Official on the proposed plat that each lot has a site suitable for a Health-Department-approved sewage disposal system and a one-hundred-percent reserve site; if applicable. The subdivider may be required by the Health Official to provide the Virginia Department of Health with information on soil studies, percolation tests, topographic studies and other engineering data as evidence that the land is suitable for sewage disposal. Drain field and reserve drain field must be shown on all plats. Health Department conditional use permits for septic system use during only certain months is not acceptable.
- B. All remote sites shall be deeded with the lots served, or granted easements in perpetuity for the installation, maintenance, and repair of sewage disposal systems. Each remote site shall be located on the subdivision plat and permanently field marked for ease of identification. When multiple remote sites are located upon common ground, the area for each sewage disposal system shall be at least 10 feet from all other sewage disposal systems and a twenty-five-foot construction easement shall border the outer perimeter of the remote sites.
- C. In each subdivision utilizing remote sewage disposal sites, the agent shall require easements of not less than 15 feet in width for all sewage conveyance lines extending from the lots served to the remote sites; and such easements shall be shown on the plat. When multiple conveyance lines are proposed to be installed in a single easement, such conveyance lines shall be installed at one time, shall be identified with magnetic tape, and shall be permanently engraved, stamped, or marked; and color coded at five-foot intervals for ease of identification. Each subdivision utilizing remote sewage disposal sites shall include a note on the plat that "all remote sites shall be properly maintained to protect the approved sewage disposal systems." Required maintenance shall include mowing, removal of vegetation, which could cause damage to the system, surface crowning and/or grading to promote drainage, and measures to protect against vehicular traffic.
- D. No more than 10% of the lots within any subdivision shall be permitted to utilize off-site systems; provided, however, that a subdivision of less than 10 lots shall be permitted to have one remote drainfield, per subdivision.
- E. When a subdivision of less than 10 lots has been permitted to have one remote drainfield, additional subdivision of the parent parcel or of parcels subdivided from a parent parcel shall be limited to one remote drainfield for each increment of 10 lots.

## § 140-21. Water and/or sewer.

- A. If public water is not available, each lot in a subdivision shall be served by an individual well or a

privately owned water distribution system.

- B. Nothing in this regulation shall prevent the installation of privately owned water distribution systems or sewage collection and treatment facilities, provided that such installations meet all the requirements of the State Water Control Board, the State Health Department, and any other state or local regulation having authority over such installations. Provision shall be made for continuity and responsibility of operation. The Board shall specify that utility engineering be beneficial to Mathews County.
- C. Private utility systems and areas common to those systems shall be owned, operated, and maintained by the subdivider until such time as the deed to such systems and areas is transferred to and accepted by a political subdivision of the state or a private owner approved by the governing body.
- D. Public sanitary sewage collection, conveyance and treatment facilities shall be provided to parcels or portions thereof located within the boundaries of the Mathews Court House Sanitary District per the provisions of the Mathews Court House Sanitary District Ordinance.<sup>[1]</sup>

[1] *Editor's Note: See Ch. 125, Sanitary District.*

## § 140-22. Exceptions.

Greater lot areas may be required where individual sewage disposal systems or individual wells are used if the Health Official determines that there are factors of drainage, soil condition, or other conditions that could cause potential health problems.

## § 140-23. Easements.

The agent shall require that easements for drainage through adjoining property be provided by the subdivider. If such easements cannot be obtained, then appropriate stormwater management practices must be incorporated within the subdivision to prevent a net increase in runoff. Easements of not less than 15 feet in width shall be provided for water, sewer, power lines and other utilities in the subdivision when required by the agent and Board of Supervisors.

## § 140-24. Fire protection.

The subdivider shall address fire protection for subdivisions which consist of more than five lots. A minimum of one dry fire hydrant shall be provided in the plan if the subdivision is located adjacent to available water sources. The dry fire hydrants shall be installed by the subdivider for use of the general public, Mathews County, and/or the Mathews County Volunteer Fire Department. The agent shall consult with one or all of the Mathews County Volunteer Fire Departments in order to assist in the location and necessary access to the proposed hydrants.

## § 140-25. Plans and specifications.

For subdivisions resulting in more than five lots, blue or black line prints of the plans and specifications for all required physical improvements to be installed, shall be prepared by an engineer or surveyor duly licensed by the State of Virginia, and shall be submitted to the agent for approval or disapproval within 30 days. If approved, one copy bearing certification of such approval shall be returned to the subdivider. If disapproved, all papers shall be returned to the subdivider with the reason for disapproval in writing.

## § 140-26. Sketch plan for part of a tract.

Whenever part of a tract is proposed for platting and it is intended to subdivide additional parts in the future, a sketch plat for the entire tract may be required by the agent. This sketch is for informational purposes and is not binding on the subdivider or the agent and Board of Supervisors.

## § 140-27. Lot sizes, location, shape and design.

The lot arrangement, design, and shape shall be such that lots will provide satisfactory and desirable sites for buildings and be properly related to topography and conform to requirements of this chapter. Lots shall not contain peculiarly shaped elongations to provide the necessary square footage of area, access to the drainfield, or ingress/egress to and from the lot, which would be unusable for normal purposes. The following standards have been created to assist the County in insuring that each proposed lot has sufficient buildable area, satisfactory shape, reasonable location, acceptable width, and adequate access:

- A. Shape: The lot arrangement, design, and shape shall be such that the lots will provide satisfactory and desirable sites for buildings, and be properly related to topography, and conform to requirements of this chapter. Lots shall not contain peculiarly shaped elongations or pipe stems to provide the necessary square footage of area, access to a drainfield, or ingress/egress to and from the lot. The agent, in an effort to insure against unnecessary and undesirable run-off from impervious road surfaces, may allow and encourage irregularly shaped lots as a tool of conservation and environmental protection. Excessive lot depth in relation to width shall be avoided. Except for unusual topographic conditions, a ratio of two to one for depth to width shall be considered a desirable maximum.
- B. Location: Each lot shall abut on a street dedicated by the subdivision plat, or on an existing public street. If the existing public streets are not 50 feet in width, the subdivider shall dedicate such additional widths from the center line to provide 1/2 of the future right-of-way as determined by the highway engineer, generally 25 feet from the present road center line.
- C. Corner lots: Corner lots shall have extra width sufficient for maintenance of sight distance easements or any required building lines on both streets as required by the zoning ordinance<sup>[1]</sup> and as determined by the agent.  
[1] *Editor's Note: See Ch. 175, Zoning.*
- D. Side lines: Generally, side lot lines shall be approximately at right angles, or radial to the street line, except where a variation to the requirement will provide an improved street and lot layout, or serve to enhance natural site conditions.
- E. Remnants: Remnants, or parcels of land below minimum area, including parcels which fail percolation tests, which may be left over after subdivision of a tract, shall be added to adjacent lots or designated as community open space.
- F. Length of blocks: Generally, the maximum length of blocks shall be 1,200 feet and the minimum length of blocks upon which lots have frontage shall be 500 feet.
- G. Block width: Blocks shall be wide enough to allow two tiers of lots of minimum depth, except where fronting on major streets, unless prevented by topographical conditions or size of the property, in which case the agent may approve a single tier of lots of minimum depth.

## § 140-28. Separate ownership.

Where the land covered by a subdivision includes two or more parcels in separate ownership and lot

arrangement is such that a property ownership line divides one or more lots, the land in such lot so divided shall be transferred by deed to single ownership, simultaneously with the recording of the final plat. Said deed is to be deposited with the agent and held with the final plat until the subdivider is ready to record same, and they both shall be recorded together.

## § 140-29. Business and industrial uses.

Lots or blocks intended for business or industrial use shall be designed specifically for such purposes with adequate space set aside for off-street parking and delivery facilities.

## § 140-30. Alignment of street and access to adjoining property.

- A. Proposed streets in the subdivision shall provide for the continuation of existing, planned or platted streets on adjacent tracts, unless such continuation shall be prevented by topography or other physical conditions, or unless the agent finds such extension to be unnecessary for the coordination of development between subdivisions and such adjacent tracts.
- B. When the agent deems it appropriate or necessary to provide access to adjacent tracts not presently subdivided, proposed streets in the subdivision shall extend to the boundary lines with such adjacent tracts and temporary turnarounds shall be provided at the ends of such streets by means of temporary easements or other legal mechanisms.
- C. Half streets along the boundary of land proposed for subdivision are not permitted. Wherever possible, streets shall intersect at right angles. In all hillside areas streets running with contours shall be required not to intersect at angles of less than 70°, unless approved by the highway engineer.
- D. Where topographic considerations require the use of a narrow accessway from the street to lots, such accessway shall be a common use driveway to a maximum of four lots with a minimum street frontage of 25 feet. Provisions for a single common use driveway shall be encouraged, particularly at access points to public or private streets or roads. The length of proposed accessway shall be related to lot size, but, generally, shall be limited to no more than 1,200 feet. Minimum width of accessways shall not vary from the minimum street frontage of 25 feet (20 feet for family divisions) and shall be located and aligned for reasonable access by motor vehicles, including emergency vehicles. Where the lot served is sufficiently larger to permit further subdivision, the minimum accessway width shall be 50 feet so that a street may be constructed when further subdivision takes place.
- E. The use of a narrow accessway from a state maintained road may be established to serve a maximum of two lots. There shall be no more than one such accessway in each subdivision and shall not be implemented in order to circumvent the purpose, intent, or provisions of this chapter. The minimum width of the proposed accessway shall be at least 25 feet and shall be located and aligned for reasonable access for motor vehicles, including emergency vehicles. Where the lot served is sufficiently larger to permit further subdivision, the minimum accessway width shall be 40 feet so that a street may be constructed if further subdivision occurs.

## § 140-31. Culs-de-sac.

Each dead-end street must be terminated by a turnaround which is at least 100 feet or greater in diameter.

## § 140-32. Minimum right-of-way widths.

- A. For streets: All streets and rights-of-way shall conform to the requirement of the Virginia Department of Transportation, Road and Bridge Specifications, as required for acceptance by VDOT.
- B. For alleys: A minimum of 20 feet.
- C. For connecting streets: 40 feet in width.
- D. Existing road rights-of-way with vested rights shall not be subject to this chapter unless such rights-of-way shall be used as part of or access to the proposed subdivision or any part thereof.

## § 140-33. Construction requirements.

All streets shall be constructed to fully comply with the current road designs and standards, and road and bridge specifications as established by the State Transportation Commissioner, these standards and specifications being on file in the Highway Residency Office at Saluda, the Highway District Office at Fredericksburg and in the Central Highway Office in Richmond. Approval of street or road construction shall be obtained from state highway engineer prior to final action by the agent and Board of Supervisors.

## § 140-34. Hard surfacing of subdivision roads; state secondary system of highways.

- A. Maintenance of the subdivision roads prior to state taking over shall be the responsibility of the subdivider, including, but not limited to, maintaining roadbeds, cutting grass on rights-of-way, and snow removal. Maintenance shall be accomplished in a manner which assures the safety of the driving public. Vegetation shall be mowed regularly to assure proper sight distance. Snow removal shall be accomplished in a timely manner, while also providing access to all lots in the subdivision.
- B. The eligibility of subdivision roads to be taken into the state secondary system of highways will be based on a minimum of three permanent residences per mile, or per section thereof, and on the requirement that said roads will pass the Virginia Department of Highways and the County standards for subdivision roads. However, this will not be the final criteria. The final authority to request the Virginia Department of Highways to take subdivision roads in to the state secondary system of highways shall be within the sound discretion of the governing body.

## § 140-35. Grades.

The grades of streets shall be in accordance with the specifications established by the highway engineer, and such grades, when submitted on construction plans and profiles, shall be approved by the highway engineer prior to final action of the agent.

## § 140-36. Drainage.

Ditches, swales and culverts are to be of sufficient depth, grade and size to provide free and unencumbered drainage of the entire land area of the streets and lots within the subdivision, together with outlet ditches and drainage easements, where necessary, over and across adjacent property to natural drainage features. Drainage features shall be designed to maintain or reduce pre-development runoff rates from the proposed subdivision site.

## § 140-37. Disturbed areas.

All disturbed areas must be graded to drain and then seeded. (See Mathews County Erosion and Sediment Control Ordinance.<sup>[1]</sup>)

[1] *Editor's Note: See Ch. 50, Erosion and Sediment Control.*

## § 140-38. Special facilities.

The agent may require provision for storm sewers, curbs, gutters, and sidewalks where these are deemed to be necessary.

## § 140-39. Road construction.

- A. A subdivider must submit to the highway engineer, in duplicate, his proposed road construction plans including, to the extent deemed necessary by the highway engineer, the following:
  - (1) Profiles.
  - (2) Drainage computations.
  - (3) Typical section.
  - (4) Contour maps.
  - (5) Erosion and sediment control plan.
- B. Approval by the resident VDOT engineer shall be shown on the final plat prior to the agent's approval.

## § 140-40. Private road/driveway exceptions (waivers).

Private road exceptions (waivers) are made as provided in § 140-91 for subdivisions resulting in five lots or less. When such exceptions (waivers) are made the following provisions must be met:

- A. A direct connection is provided to a state-maintained public street and no more than one such connection.
- B. Unless substantial overriding conditions exist, such roads will meet state specifications with regard to plans, profiles, turnaround, drainage, alignment and easements. In this latter case, the subdivision plat and all approved deeds of subdivision, or similar instruments, must contain statements advising:
  - (1) That the street does not meet state specifications and will not be maintained by VDOT or the County.
  - (2) That lot owners are responsible for a proportionate share of maintenance and repair costs of the street.
  - (3) That no public agency will be responsible for any costs involved in having the street brought up to standards for acceptance into the state secondary system of highways. Subsequent grantors of any subdivision lots to which the above statements apply must also include such statements on each deed of conveyance thereof.
- C. The subdivision complies with the design and improvement requirements of this chapter except for streets.
- D. The subdivision and all lots are appropriately restricted so as to preclude any resubdivision or addition so as to alter the original number of lots unless said road is brought up to state standards.

- E. Easements for ingress and egress for public emergency and maintenance vehicles shall be granted to the County for all such number of lots.
- F. No land shall be reserved, held or controlled for the purpose of prohibiting access to streets and roads unless owned, held or controlled exclusively by the County or any agency of the state or federal government.
- G. No exception or exemption will be granted for private roads where there is opposition, in writing, from VDOT, the Health Department or the Erosion and Sediment Control Officer.
- H. The final plat shall contain a statement indicating those specifications with which the road(s) will not be in compliance with VDOT specifications.
- I. The final plat, including any and all reproductions and/or any subsequent redrafting thereof, shall include, in block lettering of not less than one inch in height, "PRIVATE ROAD," and beneath which, in normal twelve-point type, "Maintenance of this road is the responsibility of the lot owner. Refer to covenants cited in the deed."
- J. Covenants shall be recorded in the clerk's office of Circuit Court of the County, the same being made a part of each deed and running with the land setting forth the following:
  - (1) The responsibility of the adjoining land owners within the subdivision as to right-of-way and maintenance thereof;
  - (2) Specific language as to collection of funds for the maintenance of said road;
  - (3) Language precluding any subsequent request for the road to be taken into the state highway system unless it is brought up to VDOT standards by the homeowners;
  - (4) Specific language prohibiting further subdivision of any lot of land served by said road.
- K. Minimum access requirements for driveways:
  - (1) A driveway serving single-family dwellings and/or a duplex on no more than two parcels shall have a minimum travel surface of 12 feet within a twenty-five-foot-wide right-of-way easement.
  - (2) A driveway ending large enough to accommodate emergency response vehicles shall be required for driveways in excess of 150 feet in length.
  - (3) Vegetation clearance required:
    - (a) A minimum vertical clearance of 14 feet shall be maintained.
    - (b) A minimum horizontal clearance of no less than five feet on each side of the driveway shall be maintained.
- L. Minimum access requirements for private roads.
  - (1) A private road shall have a minimum travel surface width of 18 feet within a forty-foot-wide right-of-way easement.
  - (2) A professional engineer or land surveyor licensed by the Commonwealth of Virginia shall certify that the road has been constructed according to the requirements of this chapter. Such road shall accommodate resulting stormwater run-off in accordance with the Zoning and Erosion and Sediment Control Ordinances of Mathews County<sup>[1]</sup> and the Virginia Erosion and Sediment Control Handbook.
    - [1] *Editor's Note: See Ch. 175, Zoning, and Ch. 50, Erosion and Sediment Control.*
  - (3) All dead-end private roads shall terminate with a minimum forty-five-foot radius bulb cul-de-sac

or alternative turnaround in conformance with Virginia Department of Transportation standards.

- (4) Grade, horizontal and vertical alignment, drainage and slope shall meet the standards of the Virginia Department of Transportation for any new private access easements.
- (5) General requirements for private roads.

<b>Right-Of-Way Width (feet)</b>	<b>Minimum Width Of Travel Surface (feet)</b>	<b>Minimum Typical Road Section</b>	<b>Minimum Shoulder Width (feet)</b>	<b>Maximum Grade</b>	<b>Vertical Vegetation Clearance (feet)</b>	<b>Horizontal Vegetation Clearance (feet)</b>
40	18	*Minimum CBR 10 Base; 2 inches 21A stone Compacted, 2 inches #68 stone surface or other comparable material	4	10%	Not less than 14	Not less than 14 from the centerline of roadway

**NOTES:**

- \* A certified soil engineer must certify that the road base meets the minimum CBR 10 requirement on the submitted site plan for the private road.

## § 140-41. Off-site road improvements.

The subdivider must upgrade off-site roads from the subdivision to a state road to VDOT specifications. In the case a private road is approved for the subdivision, an equivalent road is required from the subdivision to the state road.

## § 140-42. Monument location.

Reinforced concrete monuments four inches in diameter or square three feet long with a flat top shall be set at all street corners, at all points where the street line intersects the exterior boundaries of the subdivision, and at right angle points and points of curve in each street. The top of the monument shall have an identifiable point to identify properly the location and shall be set flush with the finished grade. All lot corners other than those mentioned above shall be marked by an iron stake a minimum of 1/2 inch in diameter and three feet long.

## § 140-43. Visible for inspection.

Upon completion of subdivision streets, sewers, and other improvements, the subdivider shall make certain that all monuments required by the Highway Engineer are clearly visible for inspection and use. Such monuments shall be inspected and approved by the Engineer before any improvements are accepted by the agent.

## § 140-44. Street names.

Proposed streets which are obviously in alignment with others already existing and named shall bear the names of existing streets. In no case shall the name for proposed streets duplicate existing street names, irrespective of the use of the suffix street, avenue, boulevard, driveway, place or court.

## **§ 140-45. Street name signs.**

Street name signs shall appear at all intersections. Signs shall be designed and erected in accord with Virginia Department of Transportation state sign policy and standards. The Board shall approve street names and, where not governed by Virginia Department of Transportation street sign policy and standards, the design and location of signs.

## **§ 140-46. Traffic impact study.**

When deemed necessary by VDOT, the subdivider shall provide to the agent, in conjunction with VDOT, a study of the impact of traffic resulting from the subdivision to the closest state highway. If, upon the advice of VDOT, such additional traffic would, in their opinion, exceed the standard for public safety and corrective action would not be feasible then, in such event, the agent may:

- A. Require the subdivider to reduce the size of the subdivision to a number of lots deemed to be safe;
- B. Require deed restrictions to prevent resubdivision of properties; or
- C. Deny approval of the subdivision.

## **§ 140-47. Additional information to be supplied in certain cases.**

In the event that the subdivider proposes condominium, townhouse or cluster house type developments, or any major subdivision of more than five lots, there shall be submitted jointly to the Planning Commission and the agent and Board of Supervisors additional information concerning the proposed development. In such cases, the Planning Commission shall make a recommendation concerning adequacy of the provided information. Additional information to be provided with the preliminary plat shall include the following:

- A. Sewerage disposal plan.
- B. Solid waste disposal plan.
- C. Water distribution plan.
- D. Fire protection plan.
- E. Plan of control and maintenance of common spaces or areas.
- F. Copy of master deed, if applicable, or prototype individual deed.
- G. Water quality impact assessment, if deemed necessary.
- H. Environmental site assessment, if deemed necessary.
- I. Plan for ingress/egress onto existing public roads.

## **§ 140-48. Underground utilities.**

Where new electrical and telephone lines are required for internal service to a subdivision, such lines shall be placed underground.

## § 140-49. Areas of major shoreline erosion.

In areas of significant erosive activity along banks or shorelines, the agent shall require the subdivider to not only file a plan for erosion and sedimentation control, but also to execute a plan of stabilization as a part of those site improvements covered by bond. The agent reserves the right to utilize this additional requirement in cases where it is clear that some remedial measures are required, and the likelihood of successfully treating the problem is significantly decreased when left to subsequent individual efforts, executed at indefinite times in the future. It is the intent of this section to assure sound waterfront management and conservation practices in situations and areas where a consolidated effort, executed as a whole and in its entirety, is more likely to arrest significant erosion.

## § 140-50. Open space and recreation area.

The subdivision design shall reflect the community's need for open space sites for public facilities and recreation area as indicated in the comprehensive plan and as may be anticipated by the demand created through development of the subdivision.

- A. All subdivisions containing more than five lots, averaging five acres or less in area, shall provide common open space, natural areas and recreation areas equal to at least 10% of the total area of the subdivision. This space is to be used for residents of the subdivision and shall include such things as parks, playgrounds, general recreation areas and natural areas for habitat protection. Land providing community or public waterfront access shall be considered as contributing to this requirement. Such open space shall not be in tracts of less than one acre and shall be suitable for its designated use as to location and topography, and shall be maintained, as appropriate, by the subdivider, homeowners' association or other approved agency.
- B. All new residential subdivisions on the shoreline which include nonwaterfront lots shall insure community access to public waters by means of, at a minimum, a twenty-five-foot or greater pedestrian right-of-way to a community open space along the water. The provided community open space along the water shall be at least 100 feet in width and 50 feet in depth.
- C. Recreational and open space areas, whether publicly or privately owned, which are provided in conformance with approval of any form of cluster, multifamily, townhouse, or planned unit development, and which equal or exceed the requirements for dedication as set forth herein, may completely and fully satisfy the above requirements provided the subdivider shall satisfy the agent and Board of Supervisors that there are adequate provisions to assure retention and future maintenance of said areas.
- D. Any lands dedicated for open space purposes shall contain appropriate covenants and deed restrictions to insure that:
  - (1) The open space will not be further subdivided;
  - (2) The use of the open space will continue in perpetuity for the purpose specified;
  - (3) Appropriate provisions are made for the maintenance of the open space;
  - (4) Common undeveloped open space shall not be turned into commercial enterprise admitting the public at a fee.
- E. If the open space is owned and maintained by a homeowners' association, the developer shall file a

declaration of covenants and restrictions that will govern the association, to be submitted with the application for preliminary approval. The provisions shall include, but are not limited to the following:

- (1) The homeowners' association must be established before the homes or lots are sold;
- (2) Membership must be mandatory for each home/lot buyer and any successive buyer;
- (3) The open space restrictions must be permanent, not just for a period of years;
- (4) The association must be responsible for liability insurance, local taxes and the maintenance of a recreation and other such facilities;
- (5) Homeowners must pay their pro rata share of the cost; the assessment levied by the association may become a lien on the property, if allowed in the master deed establishing the homeowners' association;
- (6) The association must be able to adjust the assessment to meet changing needs and demands.

## Article V. Chesapeake Bay Preservation Area Requirements

### § 140-51. Purpose of article.

The purpose of this article is to incorporate within the subdivision requirements of the County, measures to protect the quality of state waters within the Chesapeake Bay Preservation Area Overlay District established by Article XXII of the Mathews County Zoning Ordinance (the Zoning Ordinance),<sup>[1]</sup> and to assure that all subdivisions approved as of the effective date of this article comply with the applicable criteria of the Chesapeake Bay Preservation Area Designations and Management Regulations (VR 173-02-01) promulgated by the Chesapeake Bay Local Assistance Board.

[1] *Editor's Note: See Ch. 175, Zoning, Art. XXII.*

### § 140-52. Applicability of article.

The requirements of this article shall apply to all lands within the Chesapeake Bay Preservation Area Overlay District for which any preliminary or final subdivision plat is submitted for approval or exemption on or after the effective date of this article. The requirements of this article shall be in addition to all other applicable requirements of this chapter as well as all other applicable ordinances of Mathews County.

### § 140-53. Performance criteria to be incorporated.

- A. All performance criteria and other requirements set forth in Article XXII of the Zoning Ordinance<sup>[1]</sup> shall be applicable to lots created pursuant to this chapter. Certain requirements for plans and studies as specified in this section shall be the minimum applicable to all subdivision plats submitted for approval, and such other requirements for plans and studies as are necessary to comply with Article XXII of the Zoning Ordinance shall be applicable at the time of proposed land disturbance or development of lots created pursuant to this chapter.

[1] *Editor's Note: See Ch. 175, Zoning, Art. XXII.*

- B. The approximate boundaries of the Resource Protection Area and the approximate boundaries of the Resource Management Area shall be shown and clearly identified on all preliminary and final plats. All land disturbance exceeding 2,500 square feet and intended for purposes of installing subdivision

improvements shall be subject to the requirements of Article XXII of the Zoning Ordinance pertaining to land disturbance, unless specifically exempted therein.

- C. Subdividers are encouraged to provide plans, studies, and information in addition to the minimum requirements set forth herein in order to minimize the extent of such plans, studies, and information necessary at the time of proposed land disturbance or development of lots created pursuant to this chapter.

## § 140-54. Subdivision lots to be capable of meeting performance criteria.

Lots created pursuant to this chapter shall be of sufficient size, width, depth, and arrangement to meet all applicable requirements of Article XXII of the Zoning Ordinance and to enable a reasonable buildable area for the intended use and development. To the extent deemed necessary to determine the capability of any lot to meet such requirements, the Administrator shall require submission of a water quality impact assessment and any of the plans and studies comprising the plan of development process set forth in Article XXII of the Zoning Ordinance.

## § 140-55. Required certification and notation.

- A. The following language shall be included on all plats to certify the presence or absence of the Chesapeake Bay Preservation Area within the subdivision:
- "I certify that the areas demarcated within the boundary coordinates of this subdivision represent an accurate delineation of the Resource Protection Area and a fair and true approximation of the Resource Management Area components of the Chesapeake Bay Preservation Area."

Date

Signature

Qualification

or

"I certify that there is no Chesapeake Bay Preservation Area located within the boundary coordinates of this subdivision."

Date

Signature

Qualification

- B. In addition to the certification statement, all plats showing parcels within the Chesapeake Bay Preservation Area shall also include the following notations:
- (1) "An undisturbed and vegetated one-hundred-foot-wide Resource Protection Area buffer shall be retained on all applicable parcels within this approved subdivision."
  - (2) "All on-site and off-site sewage treatment systems shall be pumped out at least once every five years and/or in accordance with any and all sewage treatment system maintenance agreements, or every five years submit certified documentation that the tank does not need to be pumped out."
  - (3) "All created parcels requiring drainfields shall have one-hundred-percent reserve drainfield sites for both on-site and off-site sewage treatment systems."
  - (4) "Any development within the one-hundred-foot-wide Resource Protection Area buffer is limited to only water-dependent facilities, roads or driveways satisfying specific criteria, a flood control or stormwater management facility meeting certain criteria, and/or redevelopment, as defined in Article XXII, of the Mathews County Zoning Ordinance."

- (5) "An environmental site assessment and Resource Protection Area delineation subject to the requirements of Article XXII of the Zoning Ordinance shall be completed prior to any construction on each of the created parcels."

## Article VI. Reserved

### § 140-56. through § 140-64. (Reserved)

## Article VII. Plat Requirements and Approval Procedure

### § 140-65. General information.

- A. The procedure for review and approval of a subdivision plat consists of two separate steps. The initial step is the preparation and submission to the agent of a preliminary plat of the proposed subdivision. The second step is the preparation and submission to the agent of a final plat together with required certificates. This final plat becomes the instrument to be recorded in the office of the clerk of the Circuit Court when duly signed by the agent.
- B. The subdivider shall consult early and informally with the agent for advice and assistance before the preparation of the preliminary plat and the formal application for its approval. This will enable him to become thoroughly familiar with these regulations and other official plans or public improvements which might affect the area. Such informal review should prevent unnecessary and costly revisions.

### § 140-66. Preliminary sketch.

The subdivider may submit to the agent a preliminary sketch of the proposed subdivision prior to his preparing an engineered preliminary and final plat. The purpose of such preliminary sketch is to permit the agent to advise the subdivider whether his plans are generally in accordance with the requirements of this chapter. The agent may mark the preliminary sketch indicating necessary changes. The preliminary sketch shall be as follows:

- A. It shall be drawn on white paper or on a print of a topographic map of the property.
- B. It shall be drawn to a scale of not more than 200 feet to the inch.
- C. It shall show the name, location, and dimensions of all streets entering the property, adjacent to the property, or terminating at the boundary of the property to be subdivided.
- D. It shall show the location of all proposed streets, lots, parks, playgrounds, and other proposed uses of the land to be subdivided and shall include the approximate dimensions.

### § 140-67. Platting required.

- A. Any owner or developer of any tract of land situated within Mathews County who subdivides the same shall cause a plat of such subdivision, with reference to known or permanent monuments, to be made and recorded in the office of the clerk of the Circuit Court of Mathews County, Virginia. Only that portion of land intended for transfer of ownership and/or building development shall be required to be platted or surveyed in accordance with this chapter. No such plat of subdivision shall be recorded unless and until it shall have been submitted, approved, and certified by the agent in accordance with the regulations set forth in this chapter. No lot shall be sold in any subdivision before the final plat shall

have been recorded.

- B. Before any permit for erection of a structure shall be granted, the subdivider shall apply in writing and have approved by the agent a preliminary plat including the lot, street, and utilities layout.
- C. In the event a plan for a subdivision is disapproved by the agent designated by the Board of Supervisors, the subdivider may appeal to the Board of Supervisors which may then override the recommendation of the agent and approve said plat.

## § 140-68. Draw and certify.

Every such plat shall be prepared by a surveyor or civil engineer duly licensed by the State of Virginia who shall endorse upon each plat a certificate signed by him setting forth the source of the title of the land subdivided and the place of record of the last instrument in the chain of title. When the plat is of land acquired from more than one source of title, the outlines of the several tracts shall be indicated upon the plat within an insert block or by means of a dotted boundary line upon the plat.

## § 140-69. Owner's statement.

Every such plat, or the deed of dedication to which such plat is attached, shall contain, in addition to the surveyor's or civil engineer's certificate, a statement that the above and foregoing subdivision of (here insert correct description of the property subdivided) as appears in this plat is with the free consent and in accordance with the desire of the undersigned owners, proprietors, and trustees, if any. Such plat shall be duly acknowledged before some officer authorized to take acknowledgments of deeds and, when thus executed and approved as herein specified, shall be filed and recorded in the office of the clerk of the Circuit Court of Mathews County, Virginia, under the names of the landowners signing such statement and under the name of the subdivision.

## § 140-70. Preliminary plat.

The subdivider shall present to the agent a preliminary layout at a scale of not more than 100 feet to the inch as a preliminary plat. The preliminary plat shall include the following information:

- A. Name of subdivision, owner, subdivider, surveyor or engineer, date of drawing, number of sheets, North point with source, and scale.
- B. Location of proposed subdivision by an insert map at a scale of not less than two inches equal one mile showing adjoining roads, their names and numbers, towns, subdivision, and other landmarks.
- C. The boundary survey or existing survey of record provided such survey shows a closure with an accuracy of not less than one in 5,000; total acreage; acreage of subdivided area; number and approximate area and frontage of all building sites; existing buildings within the boundaries of the tract; names of owners and their property lines within the boundaries of the tract and adjoining such boundaries.
- D. All existing, platted, and proposed streets, numbers and widths; existing utility and other easements; public areas and parking spaces; culverts, drains and water courses and their names; and other pertinent data.
- E. All parcels of land to be dedicated for public use and the conditions of such dedication.
- F. Topography at ten-foot interval, if deemed necessary.

- G. Proposed connections with existing sanitary sewers and existing water supply or alternate means of sewage disposal and water supply. Location of the primary onsite wastewater treatment system and reserve drain field, if required, per the Chesapeake Bay Preservation Area Designation and Management Regulations.
- H. FEMA floodplain reference.
- I. Subdivision agent approval block a minimum of four inches by four inches in size.
- J. Location of Chesapeake Bay Preservation Areas, if any, per the Chesapeake Bay Preservation Area Designation and Management Regulations.
- K. Note indicating that the County of Mathews and the Virginia Department of Transportation are not responsible for and will not expend public funds for the maintenance of or improvement of proposed private roads per §140-33 of this chapter, if applicable.
- L. The following language shall be included on the preliminary plat to certify the presence of wetlands as defined in §140-5 of this chapter:  
"The areas demarcated within the boundary coordinates of this subdivision may contain jurisdictional waters/wetlands of the United States which have not been officially delineated by the U.S. Army Corps of Engineers. As the applicant for this development project, I understand that Mathews County approval does not exempt this project from obtaining permits and/or approvals which may be required by the U.S. Army Corps of Engineers and/or the Virginia Department of Environmental Quality."

## § 140-71. Procedure.

The designated agent shall discuss the preliminary plat with the subdivider in order to determine whether or not his preliminary plat generally conforms to the requirements of this chapter. The subdivider shall then be advised in writing within 45 days, by formal letter or by legible markings on his copy of the preliminary plat, of (1) additional data that may be required; (2) the character and extent of public improvements that will have to be made; (3) an estimate of the costs of construction or improvements; and (4) the amount of the performance bond, if considered necessary by agent, which will be required as a prerequisite to approval of the final subdivision plat. In determining the cost of required improvements and the amount of the performance bond, the agent may consult with a duly licensed engineer who shall prepare this data for the Board or preferably may require a bona fide estimate of the cost of improvements prepared by a duly licensed engineer and furnished the Board by the subdivider.

## § 140-72. Guarantee.

Approval of a preliminary plan shall provide vested rights under the regulations in effect at the time of such plan approval. Approval by the Board of the preliminary plat does not constitute a guarantee of approval of the final plat.

## § 140-73. Time limit.

The subdivider shall have not more than 12 months after receiving official notification concerning the preliminary plat to file with the Board a final subdivision plat in accordance with this chapter. Failure to do so shall make preliminary approval null and void. The Board may, on written request of the subdivider grant an extension of this time limit.

## § 140-74. Accordance with other ordinances.

The subdivision plats must be shown to be in accordance with the Mathews County Zoning Ordinance, the Mathews County Erosion and Sediment Control Ordinance, the Mathews County Floodplain Management Ordinance, and, if applicable, the Mathews Court House Sanitary District Ordinance.<sup>[1]</sup>

[1] *Editor's Note: See Ch. 175, Zoning, Ch. 50, Erosion and Sediment Control, Ch. 63, Floodplain Management, and Ch. 125, Sanitary District.*

## § 140-75. Utilities.

No subdivision plat will be approved until agreement has been reached between the subdivider and the utility companies providing the necessary services and until the easements and agreements are specified on the plat.

## § 140-76. Final plat.

The subdivider shall present to the agent copies of the final plat for approval and subsequent recording. This final plat shall be clearly and legibly drawn in ink at a scale of not more than 100 feet to the inch on sheets having a maximum size of 16 inches by 22 inches. It should show the following information:

- A. Names of subdivision, magisterial district, County, state, owner, North point, scale of drawing, and number of sheets. If shown on more than one sheet, matched lines shall clearly indicate where the several sheets join. A blank oblong space of four inches by four inches shall be reserved for the use of the approving authority.
- B. Location of proposed subdivision by an insert map at a scale of not less than two inches equal one mile indicating adjoining roads, their names and numbers, towns, subdivisions, and other landmarks.
- C. A boundary survey with an error of closure within the minimum state requirements and showing the location of all monuments and their type of material. The survey may be related to the U.S.C.G. state grid north if the coordinates of two adjacent corners of the subdivision are shown.
- D. Certificates signed by the surveyor or engineer setting forth the source of title of the owners of the land subdivided and the place of record of the last instrument in the chain of title.
- E. A statement to the effect that the subdivision as it appears on this plat is with the free consent and in accordance with the desires of the owners, proprietors, and trustees, if any, which shall be signed by the owners, proprietors, and trustees, if any, and shall be duly acknowledged before some officer authorized to take acknowledgments of deeds.
- F. When the subdivision consists of land acquired from more than one source of title, the outlines of the various tracts shall be indicated by dash lines and identification of the respective tracts shall be placed on the plat.
- G. The accurate location and dimensions by bearings and distances with all curve data on all lots, including acreage, and street lines and center lines of streets; boundaries of all proposed or existing easements, parks, school sites, or other public areas; the number and area of all building sites; all existing public and private streets, numbers and width; existing utilities and those to be provided, such as sanitary sewers, storm drains, water mains, manholes, and underground conduits, including their size and type; water courses and their names; names of owners and the property lines, both within the boundary of the subdivision and adjoining said boundaries.

- H. All dimensions shown in feet and decimals of a foot to the closest 1/100 of a foot, all bearings in degrees, minutes, and seconds to the nearest second.
- I. The data of all curves along the street frontages shall be shown in detail at the curve or in a curve data table containing the following: delta, radius, arc, tangent, chord, and chord bearings.
- J. FEMA floodplain reference.
- K. Location of Chesapeake Bay Preservation Areas, if any, per the Chesapeake Bay Preservation Area Designation and Management Regulations.
- L. Location of the primary on site wastewater treatment system and reserve drain field, if required, per the Chesapeake Bay Preservation Area Designation and Management Regulations.
- M. Note indicating that the County of Mathews and the Virginia Department of Transportation are not responsible for and will not expend public funds for the maintenance of or improvement of proposed private roads per § 140-33 of this chapter, if applicable.
- N. The following language shall be included on the final plat to certify the presence of wetlands as defined in § 140-5 of this chapter:  
"The areas demarcated within the boundary coordinates of this subdivision may contain jurisdictional waters/wetlands of the United States which have not been officially delineated by the U.S. Army Corps of Engineers. As the applicant for this development project, I understand that Mathews County approval does not exempt this project from obtaining permits and/or approvals which may be required by the U.S. Army Corps of Engineers and/or the Virginia Department of Environmental Quality."

## § 140-77. Part of tract.

Whenever part of a tract is proposed for platting and it is intended to subdivide additional parts in the future, a sketch of plans for the entire tract shall be submitted with the preliminary plat.

## § 140-78. Conditions.

The plat shall not be approved until the subdivider has complied with the general requirements and minimum standards of design in accordance with this chapter and has made satisfactory arrangements for the performance bonds, cash, or cash bond to cover the cost of necessary improvements to the satisfaction of the agent, if bond is considered necessary. Approval of final plat shall be written on the face of the plat by the agent.

## § 140-79. Bond.

Before any final subdivision plat shall be approved by the agent, the subdivider shall provide an appropriate form of bond in accordance with § 140-5, Definitions, and § 140-18, Improvements and bonds, of this chapter.

## § 140-80. Necessary changes.

No change, erasure, or revision shall be made on any preliminary or final plat, nor on accompanying data sheets after approval of the agent has been endorsed in writing on the plat or sheets, unless authorization for such changes has been granted in writing by the agent.

## § 140-81. As-built drawings.

The subdivider shall provide a set of "as-built" drawings to the agent at the time of completion of easements, streets, and utilities provisions: The drawings shall show the exact location and dimensions of all easements, streets, utilities and rights-of-way.

## § 140-82. Term of validity for final plan.

The subdivider shall record the approved record plat in the clerk's office of the Circuit Court of the County within six months after approval thereof; otherwise, such approval shall become null and void. In cases where construction of facilities to be dedicated for public use has commenced pursuant to an approved plan or permit with surety approved by the governing body, or where the developer has furnished surety to the governing body in the amount of the estimated cost of construction of such facilities, the time limit for plat recordation shall be extended to one year after final approval or to a time limit specified in the surety agreement approved by the governing body, whichever is greater.

## Article VIII. Vacation of Plats

### § 140-83. Vacation of plats before sale of lot.

- A. Where no lot has been sold, the recorded plat, or part thereof, may be vacated according to either of the following methods:
- (1) With the consent of the governing body, or its authorized agent, of the locality where the land lies, by the owners, proprietors and trustees, if any, who signed the statement required by **§ 140-69** of this chapter, at any time before the sale of any lot therein, by a written instrument, declaring the plat to be vacated, duly executed, acknowledged or proved and recorded in the same clerk's office wherein the plat to be vacated is recorded and the execution and recordation of such writing shall operate to destroy the force and effect of the recording of the plat so vacated and to divest all public rights in, and to reinvest the owners, proprietors and trustees, if any, with the title to the streets, alleys, easements for public passage and other public areas laid out or described in the plat; or
  - (2) By ordinance of the governing body of the locality in which the property shown on the plat or part thereof to be vacated lies, provided that no facilities for which bonding is required pursuant to Code of Virginia §§ 15.2-2241 through 15.2-2245, as amended, have been constructed on the property and no facilities have been constructed on any related section of the property located in the subdivision within five years of the date on which the plat was first recorded.
- B. The ordinance shall not be adopted until after notice has been given as required by the Code of Virginia § 15.2-2204. The notice shall clearly describe the plat or portion thereof to be vacated and state the time and place of the meeting of the governing body at which the adoption of the ordinance will be voted upon. Any person may appear at the meeting for the purpose of objecting to the adoption of the ordinance. An appeal from the adoption of the ordinance may be filed within 30 days of the adoption of the ordinance with the Circuit Court having jurisdiction of the land shown on the plat or part thereof to be vacated. Upon appeal the court may nullify the ordinance if it finds that the owner of the property shown on the plat will be irreparably damaged. If no appeal from the adoption of the ordinance is filed within the time above provided or if the ordinance is upheld on appeal, a certified copy of the ordinance of vacation may be recorded in the clerk's office of any court in which the plat is recorded.

- C. The execution and recordation of the ordinance of vacation shall operate to destroy the force and effect of the recording of the plat, or any portion thereof, so vacated, and to divest all public rights in and to the property and reinvest the owners, proprietors and trustees, if any, with the title to the streets, alleys, and easements for public passage and other public areas laid out or described in the plat. (State law reference: Code of Virginia, §15.2-2271, as amended.)

## § 140-84. Vacation of plats after sale of lot; methods.

In cases where any lot in a subdivision has been sold, the subdivision plat, or part thereof, may be vacated according to either of the following methods:

- A. By plat of vacation agreeing to such vacation, signed by all the owners of lots shown on the plat and also signed by the director. In cases involving drainage easements or street rights-of-way where the vacation does not impede or alter drainage or access for any lot owners other than those lot owners immediately adjoining or contiguous to the vacated area, only the signatures of the lot owners immediately adjoining or contiguous to the vacated area shall be required. The word "owners," as used herein, shall not include lien creditors, except those whose debts are secured by a recorded deed of trust or mortgage, and shall not include any consort of an owner. The instrument of vacation shall be acknowledged in the manner of a deed and filed for record in the clerk's office.
- B. By ordinance of the Board of County Supervisors, on motion of one of its members or on application of any interested person. Such ordinance shall not be adopted until notice has been given as required by §15.2-2204, as amended, of the Code of Virginia. Such notice shall clearly describe the plat or portion thereof to be vacated and state the time and place of the meeting of the Board of County Supervisors at which the adoption of the ordinance will be voted upon. Any person may appear at such meeting for the purpose of objecting to the adoption of the ordinance. An appeal from the adoption of the ordinance may be filed, within 30 days, with the Circuit Court of the County. Upon such appeal, the Court may nullify the ordinance, if it finds that the owner of any lot shown on the plat will be irreparably damaged. If no appeal from the adoption of the ordinance is filed within the time above provided, or if the ordinance is upheld on appeal, a certified copy of the ordinance of vacation shall be recorded in the clerk's office. (State law reference: Similar provisions, Code of Virginia, §15.2-2272, as amended.)

## § 140-85. Effect of vacation on plat.

The recordation of an instrument or ordinance of vacation as provided in §140-84 shall operate to destroy the force and effect of the recording of the plat or part thereof so vacated, and to vest fee simple title to the centerline of any streets, alleys or easements for public passage so vacated in the owners of abutting lots, and shall act to consolidate the vacated portions with the abutting lots, free and clear of any rights of the public or other owners of lots shown on the plat, but subject to the rights of the owners of any public utility installations which have been previously erected therein. If any such street, alley or easement for public passage is located on the periphery of the plat, such title, for the entire width thereof, shall vest in such abutting lot owners. The fee simple title to any portion of the plat so vacated as was set apart for other public use shall be revested in the owners, proprietors and trustees, if any, who signed the statement required by §140-69 of this chapter, free and clear of any rights of public use in the same. (State law reference: Similar provisions, Code of Virginia, §15.2-2274, as amended.)

## § 140-86. Duty of clerk.

The clerk of court shall write, in plain legible letters, across each plat, or the part thereof, vacated pursuant to the provisions of this article, the word "vacated" and also make reference on the same to the volume and

page in which the instrument of vacation is recorded. (State law reference: Similar provisions, Code of Virginia, § 15.2-2276, as amended.)

## § 140-87. Replatting of subdivisions and boundary lines adjustments.

- A. A subdivider may submit a replat of any previously recorded subdivision or part thereof, whenever he desires to alter or amend such recorded plat to reflect changes, alterations, or relocations of rights-of-way, easements, or other interests conveyed to the County by the previous plat, in order to cause such record plats accurately to reflect the true locations of such features. Such replats shall be accepted and reviewed by the Planning Office as other subdivision plats, and upon approval may be recorded in the Clerk's Office as other plats are recorded.
- B. The recordation of such replat shall operate to terminate and extinguish all such rights-of-way, easements or other public interests except to the extent shown on the replat; except that it shall not operate to terminate or extinguish streets, alleys, or easements for public passage shown on the original plat, which shall be subject to the provisions of law with respect to vacations thereof, or interests which the County has acquired by condemnation or by purchase for valuable consideration and for which a separate instrument of record exists.
- C. The boundary lines of any lot or parcel may be relocated, eliminated, or otherwise altered by an approved and recorded replat of said lines upon application by the owner or owners of the lots or parcels affected thereby; provided that such replat does not involve the relocation or alteration of streets, alleys, easements for public passage, or other public areas, and that no easements or utility rights-of-way shall be relocated or altered without the express consent of all persons holding any interest therein.
- D. The boundary lines of any nonconforming lot may only be adjusted to make the lot more conforming. Any such adjustments shall be in accordance with the requirements of the zoning ordinance.<sup>[1]</sup> (State law reference: Similar provisions, Code of Virginia, § 15.2-2275, as amended.)  
[1] *Editor's Note: See Ch. 175, Zoning.*

## Article IX. Effectual Clauses

### § 140-88. Applicability.

This chapter shall apply to all subdivisions of land in the County.

- A. No person shall subdivide any land without making and recording a plat of such subdivision and fully complying with the provisions of state law and this chapter.
- B. No plat of any subdivision shall be recorded unless and until it shall have been submitted to and approved by the agent.
- C. No person shall sell or transfer any land of a subdivision before such plat has been duly approved and recorded, as provided herein, unless such subdivision was lawfully created prior to the adoption of a subdivision ordinance applicable thereto; provided, however, that nothing herein contained shall be construed as preventing the recordation of the instrument by which such land is transferred or the passage of title as between the parties to the instrument.
- D. No clerk of any court shall file or record a plat of a subdivision required by this chapter until such plat has been approved by the agent, as required herein, nor shall any instrument which has the effect of

creating a subdivision be filed or recorded until such has been approved by the agent.

## § 140-89. Conflicts with other provisions of law.

In addition to the requirements contained herein, all development shall comply with all applicable ordinances, requirements and permitting procedures of the various local, state, and federal review/regulatory agencies. This chapter is not intended to interfere with, abrogate or annul any order of a court of competent jurisdiction, or any statute, regulation, or other provision of law. Where this chapter, or any provision herein, differs with any provision of any applicable ordinance, code, requirement or regulation, or other provision of law, whichever provisions are the more restrictive or impose the higher standards shall apply.

## § 140-90. Private contracts.

This chapter bears no relation to any private easement, covenant, agreement, or restriction, nor is the responsibility of enforcing such private easement, covenant, agreement or restriction implied herein to any public official. When this chapter calls for more restrictive standards than are required by private contract, the provisions of this chapter shall control.

## § 140-91. Waivers (exceptions) and variance procedures.

- A. Where, in the case of a particular proposed subdivision, it can be shown that strict compliance with the requirements of this chapter would result in substantial injustice or substantial hardship to the subdivider because of unusual topography or other situations or conditions which are not self-inflicted, or that these conditions would result in inhibiting the achievement of the objectives of these regulations, the agent and/or Board of Supervisors may vary, modify, or waive the requirements such that substantial justice may be done and the public interest secured; provided, however, that such variance, modification, or waiver will not have the effect of nullifying the intent and purpose of this chapter or being contrary to the goals and objectives of the comprehensive plan, the zoning ordinance and the erosion and sediment control ordinance for the County.<sup>[1]</sup> Any exception thus authorized is to be stated in writing in the minutes of the agent and/or Board of Supervisors with the reasoning in which the departure was justified set forth. Any opposition submitted in writing from the highway engineer or Health Official will be considered for not approving a variance to this chapter.

[1] *Editor's Note: See Ch. 175, Zoning, and Ch. 50, Erosion and Sediment Control.*

- B. A subdivider may request from the Mathews County Board of Zoning Appeals a variance from the lot area, bulk and other requirements contained in the Mathews County Zoning Ordinance<sup>[2]</sup> per the provisions and procedures set forth therein.

[2] *Editor's Note: See Ch. 175, Zoning.*

## § 140-92. Enforcement.

The agent, on behalf of the Board, may institute, or cause to be instituted, any appropriate action or proceeding against any subdivider or other person who fails or refuses to comply with the provisions of this chapter.

## § 140-93. Violation and penalties.

Any person violating any of the provisions of this chapter shall be guilty of a misdemeanor and upon conviction shall be subject to a fine of not more than \$500 for each lot or parcel of land subdivided or transferred or sold in violation of this chapter. Furthermore, each day after the first from which the violation continues shall constitute a separate violation. The description of such lot or parcel by metes and bounds or courses and distances in the instrument of transfer or other document used in the process of subdividing, selling or transferring shall not exempt the transaction from the penalties or remedies set forth herein.

## § 140-94. Fees.

There shall be a charge for the examination and approval or disapproval of every preliminary plat reviewed by the agent. At the time of filing the preliminary plat, the developer shall deposit with the agent checks payable to the Treasurer of the County of Mathews in the amount set by the current fee schedule as approved by the Board of Supervisors.

## § 140-95. Validity.

Should any article, section, subsection, or provision of this chapter be declared by a court of competent jurisdiction to be invalid or unconstitutional such decision shall not affect the validity or constitutionality of this chapter as a whole or any part thereof other than the part so declared to be invalid or unconstitutional.

## § 140-96. Repeal.

All ordinances or portions of ordinances of Mathews County in conflict with this chapter are hereby repealed to the extent of their conflict.

## § 140-97. Amendments.

This chapter may be amended in whole or in part by the Board of Supervisors providing no such amendment shall be adopted without a public hearing having been held in accordance with the Code of Virginia, 1950, as amended.

## § 140-98. Effective date.

- A. This chapter supercedes original ordinance that was duly considered, following a public hearing held July 19, 1979 and adopted by the Board of Supervisors of Mathews County, Virginia, at their regular meeting on August 28, 1979.
- B. This chapter was duly considered, following a required public hearing held September 20, 2005 and was adopted by the Board of Supervisors of Mathews County, Virginia, at their regular meeting on November 22, 2005.
- C. This chapter shall be effective upon adoption.